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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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10/747,848

12/29/2003

David Tseng

S63.2N-14166-US03

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

EXAMINER

STROUD, JONATHAN R

ART UNIT

PAPER NUMBER

3774

MAIL DATE

DELIVERY MODE

01/15/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/747,848 | Applicant(s) TSENG ET AL. | |
| | Examiner JONATHAN R. STROUD | Art Unit 3774 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 3, 17 and 25-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-16, 18-24 and 29-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/18/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

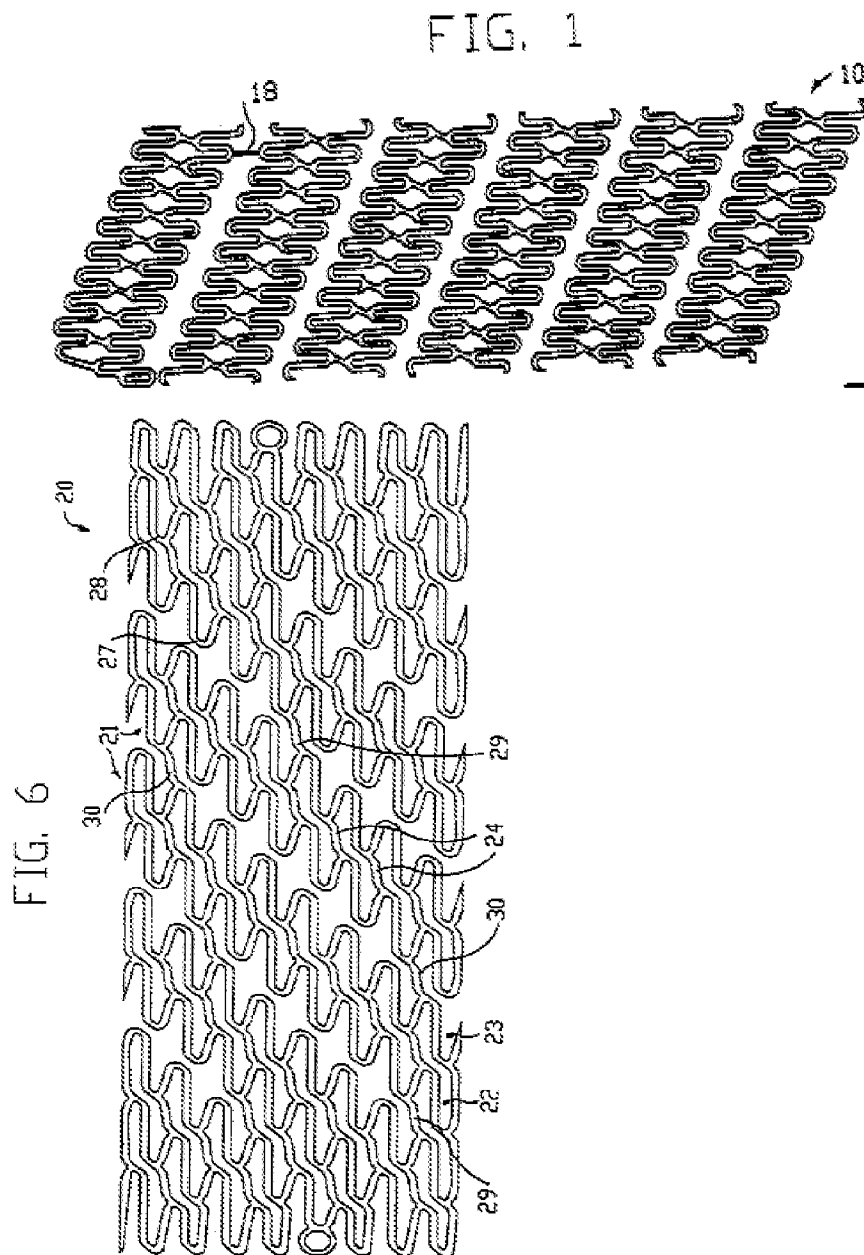
Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/18/2008 has been entered.

Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1, 6, 8, 15, 22, 24 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanesaka 5,810,872.



Re claims 1, 6, 8, 15, 22, 24 and 32, Kanesaka teaches an intraluminal stent comprising a plurality of hoops disposed in helical succession, clearly seen in figs. 6 and 1 recreated here, each of said hoops defined by a single continuous filament that

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defines a helical arrangement of elements defined by a successive series of substantially straight struts, again, clearly shown in figs. 1 and 6, elements 21, connected by apex sections, elements 27, alternately pointing in opposite axial directions, even more clearly defined in fig. 1., at least one connecting member 18 or 29 which can be adapted to do anything; a direct connection, where 19 or 29 are directly connected to the stent area struts, and a separate bridging member actual length of element 18 or 29. Hoops are seen in fig. 6 as are end hoops, which have elements that are perpendicular to the circumference and parallel to the axis of the stent.

Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 2, 4, 5, 7, 9-14, 16, 18-21, 23, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable Kanesaka 5,810,872.

Re claims 2, 4, 5, 7, 9-14, 16, 18-21, 23, and 29-31, Kanesaka generally teaches the stent as described above and provides a number of embodiments listed which encompass many of the slight changes in length, frequency, shape or orientation of the strut or stent elements; further, it has been held that changes in shape and size, the

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duplication of parts, or the experimentation within known parameters are all obvious to one of ordinary skill in the art at the time of invention.

See 2144.04 C, Making Separable, In re Dulberg, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961), Making Integral In re Larson, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965), Making Continuous, In re Dilnot, 319 F.2d 188, 138 USPQ 248 (CCPA 1963), Duplication of Parts, In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960), Rearrangement of Parts, In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). All have been held obvious to one of ordinary skill in the art.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See references cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN R. STROUD whose telephone number is (571)270-3070. The examiner can normally be reached on Monday through Friday, 8:30 a.m. to 6 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Isabella can be reached on (571)272-4749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jonathan R Stroud/
Examiner, Art Unit 3774
/Thomas J Sweet/
Primary Examiner, Art Unit 3774